

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION

No. 2:14-CR-3-FL-1

No. 2:20-CV-17-FL

MICHAEL RANKINS,	)	
	)	
Petitioner,	)	
	)	ORDER
v.	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

This matter is before the court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge Kimberly A. Swank, regarding the petitioner’s motion to vacate, set aside, or correct his sentence, under 28 U.S.C. § 2255, as amended (DE 360, 379), the government’s motion to dismiss (DE 392), and petitioner’s second motion to amend (DE 397). Also before the court is petitioner’s motion for involuntary dismissal (DE 435). No objections to the M&R have been filed, and the time within which to make any objection has expired. This matter is ripe for ruling.<sup>1</sup>

Upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own, and, for the reasons stated therein, the government’s motion to dismiss (DE 392) is GRANTED, petitioner’s motion to vacate (DE 360, 379) is DISMISSED, petitioner’s second motion to amend (DE 397) is


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<sup>1</sup> Also pending before the court is petitioner’s motion for compassionate release pursuant to the First Step Act, (DE 441), which will be addressed by separate order.

DENIED, and this matter is DISMISSED. Under 28 U.S.C. § 2253(c), the court has reviewed the arguments raised, and, in light of the applicable standard, a certificate of appealability is DENIED.

With respect to petitioner's motion for involuntary dismissal (DE 435), the court construes the motion as a motion to dismiss, under Federal Rule of Civil Procedure 41(a)(2). Where the instant motion follows the analysis by the magistrate judge of petitioner's claims on the merits, dismissal with prejudice of petitioner's claims is warranted. Accordingly, petitioner's motion for involuntary dismissal (DE 435) is DENIED AS MOOT. The clerk of court is DIRECTED to close the case.

SO ORDERED this the 21st day of December, 2021.

  
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LOUISE W. FLANAGAN  
United States District Judge